

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

Crl.MC.No. 3701 of 2006()

ST.3871/2005 of JUDL.MAGISTRATE OF FIRST CLASS, VADAKARA

PETITIONER: ACCUSED NOS.6 AND 7

1. T.R.REGHULAL, S/O. T.R.RAGHAVAN,
PARTNER, ELITE AGRO SPECIALITIES,
PERINGOTTOOR, THRISSUR.
2. SARIGHA REGHULAL, D/O. K.MADHAVAN,
PARTNER, ELITE AGRO SPECIALITIES,
THANDASSERY HOUSE, CHEMBUKAVU, THRISSUR.

BY ADV. SRI.P.VIJAYA BHANU
SRI.PRASUN.S

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR S U NAZER

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 12/02/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.3701 of 2006

Dated this the 12th day of February 2007

O R D E R

The petitioners are accused 6 and 7 in a prosecution under the provisions of the Prevention of Food Adulteration Act. The crux of the allegations against the petitioners is that the 8th accused had manufactured adulterated article in question - Ragi Puttu Podi which the first accused vendor has sold to the Food Inspector. The precise allegation is that the article is misbranded in as much as there is a statement on the packet that "doctors also advise the product".

2. The petitioners have come to this court with the prayer that the prosecution in so far as it relates to the petitioners, that is accused 6 and 7, may be quashed.

3. What are the reasons? Two reasons are urged by the petitioners. First of all, it is contended that the article cannot be said to be misbranded in as much as the label does not contain any statement that the food article in question - Ragi Puttu Podi is advised by the doctors. That the packet contains a statement "Doctors also advise" is not disputed. But according to the

petitioners, the said words must be held to relate to the later words "a tasty breakfast". In short, the contention is that the label only shows that doctors advise a tasty breakfast and not that the food article in question has been advised by the doctors for consumption.

4. Less said about the contention the better. At least at this stage, where this court is called upon to invoke its extraordinary inherent jurisdiction under Section 482 Cr.P.C, I am convinced that the said contention urged cannot persuade this court to prematurely terminate the proceedings against the petitioners. The challenge on the first ground must hence fail.

5. The next contention is that there is no precise allegation raised in the complaint that accused 6 and 7 are in charge of the respondent/8th accused firm for the conduct of its affairs. The material available indicate that altogether there were only two partners and in the facts and circumstances of this case, I am of the opinion that the absence of precise allegations to distinguish between the liability of the two (only) partners, both of whom are arrayed as accused, is also not a sufficient, satisfactory or compelling reason to invoke the powers under Section 482 Cr.P.C to prematurely terminate the proceedings.

6. In the result, this Criminal Miscellaneous Case is dismissed. But I may hasten to observe that the dismissal of this Criminal Miscellaneous Case will not in any way fetter the rights of the petitioners to raise all appropriate,necessary and relevant contentions before the learned Magistrate in the course of the trial and later. I have only chosen to hold that the powers under Section 482 Cr.P.C do not deserve to be invoked in the facts and circumstances of this case.

(R.BASANT, JUDGE)

jsr

The petitioners are accused 6 and 7 in a prosecution under the provisions of the Prevention of Food Adulteration Act. The eighth accused is the manufacturer of the allegedly adulterated article of food. The petitioners have been arrayed as accused on the short ground that "Sales Tax Officer, 3rd Circle, Thrissur reported that Accused 6 and 7 are the partners of the manufacturing firm." No other allegation whatsoever is raised against the petitioners, it is contended by the learned counsel for the petitioners. The record shows that item No.29 a document has been produced. The same is the reply to the food inspector, submitted by the sales Tax Officer, 3rd Circle, Thrissur. In that letter, the only statement made is that the petitioners are the partners of the 8th accused firm. There is absolutely no other allegations against the petitioners. The learned counsel for the petitioners, in these circumstances, prays that the prosecution in so far as it relates to the petitioners may be quashed. The

learned Public Prosecutor prays that some time may be granted to the petitioner to take specific instructions as to whether any other materials are there on the basis of which the petitioners are sought to be proceeded against. If there is any such material, statement to that effect shall be filed within a period of ten days. Call for disposal on 12/02/2007.

Interim stay shall continue till then.

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006